

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CRIMINAL CASE No. 9:22-MJ-08332-BER-I

UNITED STATES OF AMERICA,

Plaintiff,

v.

SEALED SEARCH WARRANT,

Defendant.

MOVANT MICHAEL S. BARTH
REPLY TO GOVERNMENT OMNIBUS RESPONSE TO MOTIONS TO UNSEAL

Movant Michael S. Barth, pro se respectfully submits this reply to the Government's Omnibus Response to Motions to Unseal:

1. Based on the Government's memorandum and case law cited, including the numerous unreported cases and other information cited or referenced, it is clear that the Government has failed to justify keeping the remaining documents related to the search warrant under seal.

(References omitted.)

2. It appears the Government supports additional unsealing, and their position is not if there should be more unsealing, but rather how much more if not the entire file should be unsealed. However, none of the cases cited by the Government, a number of them unreported, support keeping any portion of the remaining file under seal. Any precedent is easily to distinguish in these unique facts and circumstances. (References omitted.)

3. While the Government referenced former President Trump in support of the unsealing of certain documents on August 12, 2022, the Government omits any reference to the former President as to the unsealing of the remaining documents; and to the extent that the Government

argued it was persuasive to the first round of documents, the court has probably already noted that the former President supports releasing all the remaining documents; “JUST IN: Trump Calls for ‘Immediate Release of Completely Unredacted Affidavit’ the DOJ Objects to Unsealing.” (MSN, August 16, 2022– internet reference omitted). “Trump called for the release of the sealed, unredacted affidavit “in the interest of transparency” (Fox, August 16, 2022 internet reference omitted).

4. As to the Government’s claim the underlying warrants material should not be released as to a “continuing investigation”; once the Government office in effect raids the residence of a former President, presumably the Government has already sufficiently “finished their work”. If the Government is claiming they went after a former President resident’s only to go after “someone else,” one would expect this court would be concerned if the affidavits that were presented, were properly presented to this court, and accordingly do not support keeping the remaining documents under seal. Conversely, the Government’s purported concerns actually support the unsealing of the documents. (References omitted.)

5. As to the Government’s concern about future raids being impacted, If the Government is trying to set a future precedent, is it not in the best interest to unseal the documents as one would hope the Government wants to avoid a repeat occurrence. (Reference omitted.)

6. As to the Government’s concern about the impact to other potential “witnesses,” a number of politicians and media outlets have drawn distinctions and comparisons from the “January 6th” hearings to the present set of circumstances. However, it appears many of the witnesses related to January 6th either have written books, appeared on news casts, etc., Accordingly, the Attorney General concern is just unfounded (References omitted.)

7. To the extent this matter appears to be related to a dispute in the Executive Branch on the declassification of classified documents, and whether the former President had the Executive authority to declassify documents, it appears the Government was using the search warrant process to basically have the court to provide an “advisory opinion” on a “political question”; and therefore outside the jurisdiction of an application for a warrant to address an administrative issue; and accordingly supports unsealing the court documents. (References omitted.)

8. From an earlier press conference of the Attorney General Merrick Garland, it appeared the Department of Justice was mainly focused on the “Presidential Record Act”, and not the other statutes cited in the portion of the sealed warrant released. This seemingly conflicting guidance from the Attorney General supports the release of the remaining documents. (References omitted.)

9. Unsealing the documents provides support for confidence in the judicial system based on case law already cited. While former President Trump has called for Judge recusal, and other questioning the Federal Magistrate role in being selected from the District, as compared to advice and consent of the U.S. Senate based on the United States Constitution, unsealing the remaining records would provide public confidence that the court properly signed off on the warrant. (References omitted.)

10. As to Government’s National Security concerns that they ask the Court to consider, the Court needs to presume we live in a civilized society. While various media and politicians takes side and accuse each other of fanning the flames of violence, a range perhaps not even worth mentioning, unsealing the warrant will show one branch has confidence in the public, in effect demanded by the Constitution. (Reference omitted.)

11. What is the real National Security concern here – is not a primary concern that it appears the Secret Service may not have the legal authority to prevent a future coup by an Government that can “easily” get an arrest warrant from a different Magistrate Judge? Is the hypothetical that remote considering the New York Attorney General argued a President can be arrested while in office. Accordingly the details underlying the warrant should be unsealed. (References omitted.)

12. Is not a major National Security concern how the details underlying the warrant prevent a clash of the secret service and the Government when a former president is at the residence being raided? Accordingly the details underlying the warrant should be unsealed. (References omitted.)

13. As to the Government’s concerns about the burden of redacting material. Perhaps a basic question the Government should have already answered is how many pages of documents are within scope, 13, 130, 1,300? The Government at this level should have anticipated relevant questions on the number of pages and information already leaked by the Government, and since it appears based on the Court’s scheduling “time is of the essence”; the records should be unsealed.

Respectfully submitted,

/s/ Michael S. Barth

Michael S. Barth
Pro Se
P.O. Box 832
Far Hills, New Jersey 07931
917-628-6145